

THE UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF TEXAS  
VICTORIA DIVISION

In re:	§	
	§	Case No. 21-60052
SCOTT VINCENT VAN DYKE,	§	
	§	(Chapter 7)
Debtor.	§	

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TRUSTEE'S APPLICATION TO EMPLOY REAL ESTATE BROKER

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THIS MOTION SEEKS AN ORDER THAT MAY ADVERSELY AFFECT YOU. IF YOU OPPOSE THE MOTION, YOU SHOULD IMMEDIATELY CONTACT THE MOVING PARTY TO RESOLVE THE DISPUTE. IF YOU AND THE MOVING PARTY CANNOT AGREE, YOU MUST FILE A RESPONSE AND SEND A COPY TO THE MOVING PARTY. YOU MUST FILE AND SERVE YOUR RESPONSE WITHIN 21 DAYS OF THE DATE THIS WAS SERVED ON YOU. YOUR RESPONSE MUST STATE WHY THE MOTION SHOULD NOT BE GRANTED. IF YOU DO NOT FILE A TIMELY RESPONSE, THE RELIEF MAY BE GRANTED WITHOUT FURTHER NOTICE TO YOU. IF YOU OPPOSE THE MOTION AND HAVE NOT REACHED AN AGREEMENT, YOU MUST ATTEND THE HEARING. UNLESS THE PARTIES AGREE OTHERWISE, THE COURT MAY CONSIDER EVIDENCE AT THE HEARING AND MAY DECIDE THE MOTION AT THE HEARING.

REPRESENTED PARTIES SHOULD ACT THROUGH THEIR ATTORNEYS.

Catherine Stone Curtis, chapter 7 trustee ("**Trustee**") for the estate of Scott Vincent Van Dyke (the "**Debtor**") files this *Trustee's Application to Employ Real Estate Broker* ("**Application**") and respectfully states as follows:

**RELIEF REQUESTED**

1. The Trustee requests that the Court enter an order, substantially in the form of the proposed order attached hereto, authorizing the Trustee to retain Colleen Sherlock of Greenwood King Properties, II, Inc. ("**Broker**"), effective as of August 17, 2022, to provide assistance to the Trustee in marketing and selling the Debtor's real estate, including but not limited to, the residential

real property located at 1515 South Boulevard, Houston, Texas 77006 (the “**South Boulevard Property**”).

2. The Trustee believes the retention of the Broker is in the best interest of the estate. The Broker is a highly experienced real estate professional with experience selling homes in the area of Houston where the South Boulevard Property is located.

### **JURISDICTION AND VENUE**

3. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

4. The statutory bases for the relief requested in this Application are §§ 327(a), 330, and 704(a) of the Bankruptcy Code, Bankruptcy Rules 2014, 2016, and 6003, and Bankruptcy Local Rule 2014-1.

### **BACKGROUND**

5. On May 25, 2021, the Debtor filed a voluntary petition for relief under chapter 11, subchapter V of the Bankruptcy Code (the “**Petition Date**”).

6. On January 31, 2022, the Court entered an order converting the chapter 11 case to chapter 7 [Docket No. 129]. Catherine Stone Curtis was appointed as the chapter 7 trustee for the bankruptcy estate (the “**Estate**”).

7. The Debtor scheduled an interest in the South Boulevard Property on his Schedules A/B and has claimed it as exempt under the homestead provisions of the Texas Constitution and Property Code. [See, e.g., Docket No. 162, 48, 27]. The Debtor most recently valued the South Boulevard Property on his schedules at approximately \$2.66MM, but it is believed that the Property has substantially more value in the current real estate market.

8. The Trustee filed an *Objection to the Debtor's Claim of Exemptions*, including the Debtor's claimed homestead exemption in the South Boulevard Property. [Docket No. 186]. Creditors Builders West, Inc., and Eva Engelhart in her capacity as trustee for the Anglo-Dutch Petroleum International, Inc., estate, also each filed objections to the Debtor's claimed exemptions, including the homestead exemption. [Docket Nos. 187, 188] (collectively, the "**Objections**"). The Objections have been set for hearing on September 1, 2022, before the Court.

9. In addition, there is a pending *Motion for Relief from Automatic Stay as to 1515 South Blvd., Houston, TX, 77006* (the "**Motion for Relief**") filed by lien holder Cadence Bank set for hearing on August 29, 2022, before the Court.

10. Here, if the Motion for Relief is granted, is it critical that the Estate retain a broker as soon as possible so that the Trustee may fulfill her duty to market the South Boulevard Property if the Objections are decided in favor of the Estate and other objecting creditors, which the Trustee anticipates will be the case. The Trustee therefore requests consideration of this Application contemporaneously with the Objections.

### **THE BROKER**

11. The Broker has extensive experience in real estate transactions of this kind and with similar properties. As set forth in the Declaration of Colleen Sherlock and Disclosure of Compensation, attached as **Exhibit A**, the Broker is a "disinterested person" as defined under the Bankruptcy Code, and neither holds nor represents any interest adverse to the Trustee or the Estate.

12. The Trustee has negotiated at arm's length with the Broker. The Trustee seeks to compensate the Broker under section 328(a) in two parts. First, upon the successful sale of the Joint Debtors' real estate properties, the Broker would be entitled to a commission of 6% of the gross sales price, and reimbursement for any reasonable expenses incurred in the marketing of the South Boulevard Property. The Trustee anticipates that the out-of-pocket expenses may include those

necessary for cleaning and otherwise preparing the properties for marketing, including hiring third parties to clean the property and for necessary yard maintenance while the properties are being marketed for sale. A copy of the listing agreement and addendum is attached as **Exhibit B**, and the Trustee requests authorization by this Application to enter into an agreement substantially similar to the agreement attached as Exhibit B.

13. The Trustee requests that he be permitted to employ the Broker effective as of August 17, 2022.

### **CONCLUSION**

14. The Trustee respectfully requests that this Court approve the employment of the Broker as set forth above and in the proposed order filed herewith.

Dated: August 17, 2022

Respectfully submitted,

/S/CATHERINE STONE CURTIS

CATHERINE STONE CURTIS

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CHAPTER 7 TRUSTEE

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**General Counsel to Catherine Stone  
Curtis, Chapter 7 Trustee**

**CERTIFICATE OF SERVICE**

I certify that on the 17th day of August 2022, a true and correct copy of the foregoing was served on the Debtor, counsel for the Debtor, the Trustee and the US Trustee the CM-ECF system.

/s/ Lynn Hamilton Butler  
Lynn Hamilton Butler